

REMARKS**Claim Status**

Claims 23-43 are pending in the application.

Claim Amendment

Claims 23, 24, 30, 33-34, 36 and 38-42 have been amended. Claims 29 and 35 have been canceled.

Claims 23, 24, 30, 33-34 and 36 have been amended to delete the non-elected subject matter.

Claims 23, 33 and 36 have been further amended to correct an obvious typographical error by deleting the term " CR_2 " and inserting the term " $C(R^1)_2$ ", and by deleting the term " $C=CR_2$ " and inserting the term " $C=C(R^1)_2$."

Claim 30 has been amended to make it dependent on Claim 28, in view of the cancellation of Claim 29.

Claim 34 has been amended to define the chemical variables. Support for this amendment is found in Claim 24.

Claims 38, 39 and 42 have been amended to make them dependent on Claim 23 in view of the cancellation of Claim 1.

Claim 40 has been amended to make it dependent on Claim 24 in view of the cancellation of Claim 2.

Claim 41 has been amended to delete the phrase "characterized in that" and insert the term "wherein".

Claim Rejection Under 35 U.S.C. § 112

Claims 23-43 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that "[i]n independent claims 23, 33 and 36, the variable R_2 is not defined."

Applicants have amended Claims 23, 33 and 36 to replace R_2 with $(R^1)_2$. Applicants submit that this is an obvious typographical error. Variable R^1 is defined in Claims 23, 33 and 36. Specific examples are described in the specification include Examples 2-8, 13-14, 16-19, 22, 48, 53-55, 58-60, 69-70, 78-79, 79, 81, 83, 84-87 and 93-94.

The Examiner states that “[i]n claim 41, the term --- characterized in that --- is vague. The applicants are suggested to use the term --- wherein ---.”

Applicants have amended Claim 41 to recite the term “wherein.”

Reconsideration and withdrawal of these rejections are respectfully requested.

Claim Rejection Under 35 U.S.C. § 102

Claims 33-35 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fabre (U.S. Patent 4,128,650, cited in Applicants’ form 1449).

The Examiner states that Fabre “anticipated the instant claims when variable Y’ represents CR_2 ($C=O$) group in the instant compounds of formula 4.”

Applicants have amended Claim 33 by correcting an obvious typographical error. Claim 33, as now amended, states, “Y’ is the same or different at each instance and is $C(R^1)_2$, $C=NR^1$, or $C=C(R^1)_2$.” Variable R^1 is defined in Claim 33 as “the same or different at each instance and is H or an aliphatic or aromatic hydrocarbon radical having from 1 to 20 carbon atoms.” Claim 33 does not encompass the value $C=O$ within the permitted values of variable Y’. Claims 34 and 35 are dependent upon Claim 33 and therefore contain the same limitation.

Therefore, Claims 33-35 are not anticipated by Fabre. Reconsideration and withdrawal of these rejections are respectfully requested.

Claim Objection Based on Non-Elected Subject Matter

Claims 23-43 are objected to for containing non-elected subject matter. Claims 23, 33 and 36 have been amended to delete the non-elected subject matter. Claims 23, 33 and 36, as amended, are drawn to compounds of formulae (2) or (4), where both E and Y represent C, Cy_3 and Cy_1 rings are 6-membered monocyclic aryl rings and Cy_2 ring is a 6-membered heteroaryl ring containing only 1 nitrogen atom where D or D’ represents N atom, a process for preparing such compounds and methods of using such compounds).

These amendments obviate the Examiner's objection.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By /Alexander Akhiezer – Reg. No. 54,617/

Alexander Akhiezer

Registration No. 54,617

Telephone: (978) 341-0036

Faeximile: (978) 341-0136

Concord, MA 01742-9133

Date: December 15, 2009